

No. 9(1)82-6Lab./12478.—I pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Haryana State Electricity Board, Chandigarh.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, FARIDABAD

Reference No. 34 of 1981

between

SHRI RAM SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S  
HARYANA STATE ELECTRICITY BOARD, CHANDIGARH

Shri S. S. Gupta, for the workman.

Shri N. P. Singh, for the respondent.

#### AWARD

This reference No. 34 of 1981 has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. HD/ED/165-80/1228, dated 8th January, 1981 under section 10(i)(c) of the Industrial Disputes Act, 1947, existing between Shri Ram Singh, workman and the respondent-management of M/s Haryana State Electricity Board, Chandigarh. The terms of the reference was :—

Whether the termination of services of Shri Ram Singh was justified and in order ? If not, to what relief is he entitled ?

Notices were issued to the parties on receiving this reference order. The parties appeared and filed their pleadings. The case of the workman according to the claim statement is that he was appointed as store munshi on 16th April, 1980. The claimant was in the service of the employer since 20th June, 1974 and his work and conduct was quite satisfactory. The post of store munshi was given after the selection from Selection Committee and his services were terminated on 30th May, 1980 without any enquiry and any reason which was quite illegal, arbitrary and unjustified. One more person was appointed as store munshi along with the workman and his services were also terminated with the claimant. He was a junior workman but later on he was reinstated on the same post. So the termination of the claimant was unjustified and he is entitled for his reinstatement with full back wages and continuity of service.

The case of the respondent according to the written statement is that claimant was appointed/promoted as store munshi,—vide his appointment letter as casual and work charge employee and his services were terminated under the provision of appointment letter. He was reverted to his original post of T-Mate which he was holding prior to this appointment. So the reference is bad in law and may be rejected.

On the pleadings of the parties, following issues were framed :—

1. Whether the termination of services of Shri Ram Singh is justified and in order ? If not, to what relief is he entitled ?

My findings of this issue is as under :—

Issue No. 1 :—

The representative of the respondent argued on this issue that as stated by Shri I. R. Nangia, Administrative Officer of the respondent as MW-1, the workman was working as T-Mate with the respondent and he was appointed as Store Munshi against the leave vacancy,—vide Ex. M-1 appointment letter. There was a resentment among the union workers for this appointment so his appointment was cancelled and he was posted to the original post of T-Mate. The copy of the notice Ex. M-2 is very clear in this respect. This decision was taken after having meeting with the representative of the union and it was decided according to Ex. M-3. The representative of the respondent further argued that it is not a termination. The workman was promoted on a post against the leave vacancy and when the person came he was removed from the service. So it is not a termination and the workman is still working as L. D. C. with the respondent since December, 1980 and now he is regularised as a permanent L. D. C. The leave vacancy was caused by Shri Naresh Kumar Batra which was ceased on his joining back. Shri Ram Singh who was junior to Shri Satish Kumar

was likely to be terminated. So the notice of termination was bona fide and he has given the chance of further promotion as L. D. C. and now he is working as L. D. C. on a permanent post which is higher post than the store munshi.

The representative of the workman argued on this issue that as stated by the workman as WW-1 he joined the respondent service from 20th July, 1974 as T-Mate. There was an advertisement for the post of store munshi in the beginning of 1980. He applied alongwith other seven or eight persons. The selection committee called the claimant and selected for the post. The appointment letter Ex. W-1 was given to the workman but he received the notice Ex. W-2. He has further stated that two persons were appointed as store munshi and appointed on the posts. Both the appointment letters were withdrawn and both were terminated but after two months Shri Satish Kumar was again appointed as store munshi. He was appointed without any advertisement of the post and without any Selection from the Selection Committee and another person Shri Naresh Kumar Batra was also appointed as store munshi without any selection or appointment. This is mala fide of the respondent and the claimant was terminated to adjust their own persons. He further stated that he was appointed as L. D. C. from 26th December, 1980 after giving this demand notice and case in the court and he was transferred to chutala to harass the workman. The termination was illegal and without any cause. The representative of the workman further argued that there is no reason given by the respondent before this court for the appointment of Shri Naresh Kumar Batra with any selection and advertisement and the reason for reinstatement of Shri Satish Kumar after two months of termination. It shows the mala fide attention of the respondent to appoint these two persons and to terminate the claimant which was illegal on the part of the respondent. He further argued that in the written statement the respondent has stated that the claimant was appointed against the leave vacancy and he was terminated because original incumbent has joined but they have not proved who was original incumbent after the termination. Only Shri Satish Kumar joined the services as store munshi after two months of their termination and was a junior to the claimant. One another person Shri Naresh Kumar Batra was also appointed without selection or appointment and not incumbent came to join as store munshi. The statement of the workman was not rebutted by the workman by any way in the cross examination which clears that two juniors were appointed after the termination of the claimant which shows the mala fide of the claimant and the workman was appointed as L. D. C. due to this demand notice and the case in the court on *ad hoc* basis and he can be removed at any time. So the workman is entitled for his reinstatement with full back wages and continuity of service.

After hearing the arguments of both the parties, I agree with the arguments put forward by the respondent. The respondent did not avail the opportunity of cross examining the workman so they could not rebutt what the workman has stated in examination in chief at the time of arguments. He has argued that Shri Satish Kumar was senior person to the claimant who was again appointed as store munshi and the claimant could not be appointed again because the permanent person at the post Shri Batra came to join after the expiry of leave. The workman has admitted this fact in his statement that he is working as L. D. C. from 29th December, 1980 and the representative of the respondent argued on this point that he is regularised on this post which is higher than that store munshi and the claimant is in the employment of the respondent from the date of his termination as store munshi. So in these circumstances when the claimant is working on a permanent post and better than the store munshi so he has provided the relief by the respondent and he was getting the salary from the respondent so he is not entitled for any back wages. The workman is not entitled to any relief when he is already at better job. So, it be read in answer to this reference.

Dated : The 26th November, 1982

HARI SINGH KAUSHIK,  
Presiding Officer,  
Labour Court, Haryana,  
Faridabad.

Endst. No. 2511, dated the 3rd December, 1982

Forwarded(four copies) to the Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,  
Presiding Officer,  
Labour Court, Haryana,  
Faridabad.

M. KUTTAPAN,  
Commissioner and Secretary to Government, Haryana,  
Labour and Employment Departments.